

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) for: Adoption of its 2003 and 2004 Energy Resource Recovery Account (ERRA) Forecast Revenue Requirements and Related Estimates, Approval of an Allocation Methodology for its 2003 Year-end ERRA Balance, and Approval of its 2003 ERRA Trigger Amount.

Application 03-06-002  
(Filed June 2, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING  
ON MOTIONS FOR LEAVE TO FILE UNDER SEAL  
AND APPROVAL OF A PROTECTIVE ORDER**

By its June 2, 2003 motion, San Diego Gas & Electric Company (SDG&E) moves for leave to file under seal certain information contained in the testimonies of Thomas R. Whelan and Michael McClenahan tendered under seal with its Application, pursuant to Public Utilities Code Section 583 and General Order (GO) 66-C.

By a companion motion, SDG&E seeks a protective order to ensure that its sealed information including computer models, algorithms, and assumptions relied on in developing its testimony remains confidential. Attached to that companion motion was a proposed protective agreement (agreement) to govern access and use of all SDG&E protected information and computer program materials in this proceeding.

There is no filed opposition to these motions. A public hearing on these motions is not needed.

The granting of SDG&E's request to seal confidential information included in its prepared testimony would not prejudice any party because SDG&E would provide Commission staff access to such information and upon the signing of an agreement all interested parties would also have access. It is also consistent with prior treatment of SDG&E confidential information. The information tendered under seal shall remain under seal as set forth in this ruling, pursuant to GO 66-C and the authority therein cited by SDG&E.

It is also reasonable to require interested parties to sign a protective order to access computer models including algorithms and assumptions SDG&E relied on in developing its testimony covered by a license agreement or deemed proprietary. Such a request is consistent with Article 17.1 of the Commission's Rules of Practice and Procedure. However, approval of the agreement attached to SDG&E's motion would impose conditions on non-signatories of that agreement, the Commission staff. For example, Sections 7, 8, and 14 identifies how Commission staff will process protected information and Section 26 identifies how the assigned Administrative Law Judge (ALJ) is to manage signed protective agreements.

It is not reasonable to adopt a proposed agreement that sets forth requirements for Commission staff to follow, particularly since staff is already bound by Section 583 and GO 66-C, and will not be not signatories to that agreement. The proposed agreement is not adopted.

Consistent with Rule 74.7 of the Commission's Rules of Practice and Procedure, SDG&E should execute a mutually agreed upon agreement with any party other than Commission staff wanting to access sealed data and computer models, including algorithms and assumptions SDG&E relied on in developing its testimony covered by a license agreement or deemed confidential. To the

extent that parties cannot agree on a reasonable agreement, the assigned ALJ upon receipt of a motion shall resolve any disputes.

Good cause appearing, **IT IS RULED** that:

1. The motion of San Diego Gas & Electric Company (SDG&E) for leave to file under seal commercially sensitive information contained in its testimony and exhibits is granted.

2. Portions of SDG&E testimony, concurrently submitted as a sealed document with SDG&E's application, shall remain under seal for a period of two years from the date of a final order in this proceeding, and during that period shall not be made accessible or disclosed to anyone other than Commission staff except on the execution of a mutually acceptable protective agreement.

3. If SDG&E believes that further protection of sealed information is needed beyond two years after a final order is issued, it may file a motion stating the justification for further withholding of sealed portions of its testimony from public inspection, or for such other relief as the Commission rules may then provide. This motion shall be filed no later than 30 days before the expiration of this protective order.

4. SDG&E shall provide the confidential information to the Commission staff under the protection of Public Utilities Code Section 583.

5. SDG&E shall execute a mutually agreed upon protective agreement with any party, other than Commission staff, wanting access to sealed information and computer models including algorithms and assumptions SDG&E relied on in developing its testimony covered by a license agreement or deemed confidential. The assigned Administrative Law Judge upon receipt of a motion shall resolve any disputes.

Dated July 30, 2003, at San Francisco, California.

/s MICHAEL J. GALVIN

---

Michael J. Galvin  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Motions for Leave to File Under Seal and Approval of a Protective Order on all parties of record in this proceeding or their attorneys of record.

Dated July 30, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.